

REMARKS

This communication responds to the Office Action of March 26, 2008, in which the Examiner rejected claims 1-7, 10-14, and 25-34 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 6,093, 172 ("Funderburk").

By the present response, Applicants have canceled claims 12 and 13 and have added new claims 35-39. Claims 1, 2, 5, and 25-31 have been amended. No new matter has been added by the amendments or new claims.

In the previous response, dated November 2, 2007, Applicants pointed out that Funderburk lacked a base body as claimed. In the present Office Action, the Examiner is relying on the same reference for a § 102(b) rejection. However, the Examiner indicates that the "[a]pplicant's arguments . . . are moot in view of the new grounds of rejection. The applicant has changed the scope of the claims which forced the examiner to change the interpretation of Funderburk. Applicant's arguments no longer apply."

Applicants understand that the Examiner is asserting that he is relying on a different aspect of Funderburk for anticipation of the current pending claims. However, the disclosure of Funderburk has not changed and, thus, Applicant's previous remarks regarding the currently pending claims in relation to Funderburk still apply. Applicants maintain that Funderburk fails to disclose a base body as claimed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102 (b)

Claims 1-7, 10-14, and 25-34 were rejected under 35 U.S.C. § 102(b) as anticipated by Funderburk. Applicants disagree.

Independent claims 1 and 25 are both directed in part to "a base body removably connected to the protective element, wherein the cannula is expelled from the protective element through an opening in the base body."

Funderburk discloses an injector 10. The injector 10 comprises a cylindrical forward barrel 28 having a plunger 30 mounted therein for longitudinal sliding movement. The plunger 30 has a head 32 at a forward end thereof shaped for releasibly receiving and retaining the subcutaneous insertion set 14. "[T]he plunger head 32 additionally includes a safety lock mechanism in the form of a pair of safety lock arms 94. These safety lock arms have rearward ends connected to the head 30 by pivot pins 98, and forward ends defining contoured lock fingers 100 which protrude into the plunger head recess 44.

The Examiner asserts that safety lock arms 94 anticipate the base body. However, the safety lock arms 94, which are shown in Figure 15 extending downward along each side of the plunger head 32 simply are not a base body. As labeled, they are simply arms “pivotally carried in narrow slots 96 formed in the plunger head 32” and function to selectively prevent separation of the insertion set 14 from the plunger head 32. In contrast, the claimed base body, as depicted in Figures 1-3 and 5-12 of the present application, provides for attachment of the protective element and in no way resembles arms that function to prevent separation of an insertion set 14 from a plunger 30.

As claimed, the base body is “removably connected to the protective element.” Even if the safety arms could somehow be deemed to be a base body (they cannot), they are pivotally connected by pivot pins 98, not removably connected. Moreover, the safety lock arms are connected to the plunger head 32, not the protective element. This is not a removable connection and is not a connection to a protective element as claimed. Rather, it is a pinned connection to the plunger head.

It may be that the Examiner is suggesting that the safety lock arms 94 together with the pivot pins 98 form a removable connection. However, the removable connection formed is between the safety lock fingers 94 and the insertion set 14, not between the base body and the protective element. The Examiner has compared the claimed protective element to an injector barrel 28 and the claimed base body to the safety lock arms 94. No where does Funderburk suggest the safety lock arms 94 could somehow be removably connected to the injector barrel..

Applicants maintain that claims 1 and 25 are patentable over Funderburk for at least the above reasons. Moreover, independent claim 25 is directed, in part, toward an “energy storing restoring element coupled to the cannula expelling device.” This restoring element functions to return the cannula expelling device to a position within the protective element once the cannula has been expelled. Funderburk discloses no such element. In fact, as can be seen in Figure 16 of Funderburk, the insertion needle 12 of Funderburk is disclosed as being removable after placement of the cannula, not retractable back into the injector 10.

Dependent claims 2-7, 10-14, and 26-34 depend directly or indirectly from these independent claims and recite additional features. Thus, these dependent claims are patentable for at least the same reasons as the independent claims and, further, in view of their additional recitations.

NEW CLAIMS

New claim 35 is directed to a protective element, a holder, an energy storing expelling element, at least one pair of connector elements fixedly and flexibly attached to the protective element and including latching projections, and a base body further comprising a plaster and a foundation body, wherein the foundation body is removably connected to the protective element via the at least one pair of connector elements. Funderburk does not disclose all of these elements.

New dependent claims 36-39 depend directly or indirectly from claim 35 and are therefore patentable for the same reasons and in view of their additional recitations.

CONCLUSION

This response is being submitted on or before September 26, 2008, and an extension of the time to respond until that date is hereby requested. Also, a request for continued examination (RCE) is being submitted herewith. The fee for the extension of time and the RCE should be charged to Deposit Account No. 04-1420. The Commissioner is also authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

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